



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/171452

PRELIMINARY RECITALS

Pursuant to a petition filed January 19, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on February 11, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the Petitioner's appeal is timely and, if so, whether the agency properly denied BC+ benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] |
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On October 10, 2009, the Petitioner filed an application for healthcare benefits.
3. On October 12, 2009, the agency issued a notice to the Petitioner informing her of a \$60.00 non-refundable application processing fee due by November 9, 2009 to process her BC+ Core

application. The notice also informed her that her application would not be processed unless the fee was received by the due date.

4. On October 27, 2009, the Petitioner filed a change report with the agency, reporting that she is pregnant with a due date of July 2, 2010.
5. In the beginning of November, 2009, the Petitioner had a miscarriage.
6. On December 31, 2009, the agency issued a Notice of Decision to the Petitioner informing her that she was not enrolled in BC+ Core plan because she did not pay the application fee.
7. On January 15, 2010, the agency processed the Petitioner's October 27, 2009 change report. BCPP was pended at that time pending verification of pregnancy and due date and income. Verifications were due by January 28, 2010.
8. On January 27, 2010, the case was updated with pregnancy verification. It was still pending for employer verification.
9. On February 11, 2010, the agency received employment verification. Petitioner's BCPP case was updated and confirmed and opened effective January 1, 2010.
10. On February 12, 2010, the agency issued a Notice of Decision to the Petitioner informing her that she was enrolled in BCPP effective January 1, 2010.
11. In November 2015, the Petitioner was informed that [REDACTED] had instituted a collection action against her for outstanding bills related to her pregnancy and miscarriage for October and November, 2009.

DISCUSSION

The Petitioner filed an application on October 10, 2009 for BC+ Core plan. At that time, enrollment in the Core plan was based on financial and non-financial eligibility criteria and included the requirement of a \$60 non-refundable application processing fee. The \$60 fee was due on November 9, 2009. It is undisputed that the Petitioner did not pay the \$60 fee.

However, on October 27, 2009, the Petitioner filed a change report notifying the agency that she was pregnant and due on July 2, 2010. There was no \$60 application fee required to process an application for BC+ Pregnant Women (BCPP).

The agency was unable to explain why the Petitioner's change report from October 27, 2009 was not processed until January 15, 2010. At the time the change report was processed, the agency's case comments indicate that when an agency worker contacts the Petitioner, the application should be processed with a filing date of October 27, 2009. It indicates that the BCPP case was pended for verification of pregnancy, due date and income.

The agency erred in not timely processing the Petitioner's application for BCPP. The MA Eligibility Handbook states:

All applications received by an agency must be processed and eligibility approved or denied as soon as possible but no later than 30 calendar days from:

- The filing date for applications submitted directly to the local tribal or consortium agency,
- OR
- The date the local agency received the application(s) from the Marketplace.

This includes issuing a notice of decision.

BC+ Eligibility Handbook, § 25.7.1.

With regard to eligibility dates, the BC+ Eligibility Handbook in 2009 stated as follows:

Except those women eligible only under the BC+ Prenatal Program, backdate a pregnant woman to whichever is more recent:

1. The first of the month in which the pregnancy began.
2. The first of the month, three months prior to the month of application. If a woman was pregnant before the date of her application, backdate her BC+ even though she is not pregnant on the date of application. Do not, however, continue her eligibility as a pregnant woman beyond the end of the pregnancy. Before backdating her BC+, verify that she has met all the eligibility requirements during the backdated period.

BC+ Eligibility Handbook, § 25.8.1.2.

The appeal in this case is timely because the agency failed to provide adequate due process to the Petitioner by failing to timely process her application and by not issuing a proper and adequate notice regarding BCPP coverage within 30 days of the Petitioner filing her application on October 27, 2009. The agency eventually opened the Petitioner's BCPP case but the agency incorrectly based her coverage on a January, 2010 filing date. The Petitioner's eligibility should have been determined based on a filing date of October 27, 2009. The agency failed to timely request verifications and failed to make a timely determination of eligibility.

Based on the information that the Petitioner's due date was July 2, 2010, the Petitioner became pregnant in September, 2009. Based on the BC+ provisions in effect at the time as cited above, the agency should have determined her eligible for BCPP effective September 1, 2009.. Therefore, this matter is being remanded to the agency to revise the Petitioner's eligibility for BCPP effective September 1, 2009.

CONCLUSIONS OF LAW

The Petitioner was eligible for BCPP with an effective date of September 1, 2009 through the end of her pregnancy in November, 2009.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency to take all administrative steps necessary to revise the Petitioner's eligibility for BCPP to show an effective date of September 1, 2009 with eligibility continuing through the end of the Petitioner's pregnancy in November, 2009. The agency and its fiscal agent are hereby ordered to pay any medical expenses that the Petitioner was eligible to have covered under BCPP for that period of time. These actions shall be completed within 10 days of the date of this decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and

why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 11th day of April, 2016

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on April 11, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability